

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

THIS DOCUMENT RELATES TO:

Fuelling et al v. Ameridose, LLC; 1:13-cv-12741;
Johnson, et al v. Ameridose, LLC, et al.; 1:13-cv-
12621;
Knight v. Ameridose, LLC et al; 1:13-cv-12563;
Koonce et al v. Ameridose, LLC; 1:13-cv-12590;
Lovelace v. Ameridose, LLC et al.; 1:13-cv-12772;
Mathias v. Ameridose, LLC et al.; 1:13-cv-12574;
McKee et al v. Ameridose, LLC et al.; 1:13-cv-
12779;
Miller v. Ameridose, LLC et al; 1:13-cv-12570;
Rhind et al v. Ameridose, LLC, et al.; 1:13-cv-12740;
Settle et al v. Ameridose, LLC et al.; 1:13-cv-12569;
Sharer et al v. Ameridose, LLC et al.; 1:13-cv-12577;
Smith, et al v. Ameridose, LLC, et al.; 1:13-cv-
12684;
Sullivan et al v. Ameridose, LLC et al.; 1:13-cv-
12781;
Youree et al v. Ameridose, LLC et al; 1:13-cv-12566.

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

MOTION TO ASCERTAIN STATUS OF PAYMENTS BY TORT TRUSTEE
AND FOR COURT INTERVENTION TO SET DEADLINE
FOR RESOLUTION OF ISSUE(S) THAT IS CAUSING PAYMENTS TO BE WITHHELD

As this Court will recall, at the December status conference, Tom Sobel on behalf of the PSC, represented to the Court that by December 31, 2016 checks would be disbursed by the Tort Trustee to victims who properly submitted their claims by December 15, 2016.

The following Tennessee victims properly submitted their claims by December 15, 2016, but still have not received the initial payment from the Tort Trustee.

| <u>PATIENT NAME</u> | <u>CATEGORY</u> | <u>DATE OF SUBMISSION</u> |
|-------------------------|--------------------------------|---------------------------|
| Dorothy Fuelling | Category 2 | December 7, 2016 |
| William Johnson | Category 2, but has since died | December 7, 2016 |
| Carole Koonce | Category 2 | December 8, 22016 |
| Herman Mathias | Category 1 – Death Claim | December 7, 2016 |
| Mary McKee | Category 2 | December 5, 2016 |
| Stella Miller | Category 2 | December 9, 2016 |
| Janice Rhind | Category 4 | December 5, 2016 |
| Lewis Ray Sharer | Category 2 | December 5, 2016 |
| Paula Smith | Category 4 | December 15, 2016 |
| Anna Sullivan | Category 2 | December 8, 2016 |
| Edna Youree | Category 4 | December 9, 2016 |

Undersigned counsel requested the status of the checks on January 4, 2017. Evidently, there is an issue with Rawlings and CMS that, to date, still remains unresolved.¹ In addition, there are issues with BlueCross BlueShield of Tennessee that are not resolved too.

It is well past time for these issues to be resolved. Thus, undersigned counsel requests this court to (1) ask Lynne Riley and Tom Sobel to expressly state to the Court what the unresolved issue is; (2) have a representative from each of the entities involved in the unresolved issue to appear before this Court, either in person or phone, and explain the status; and (3) impose a deadline for the resolution of the issue in order for these victims to finally receive the initial payment that was supposed to have been mailed out by December 31, 2016.

While undersigned counsel is not questioning the work of the Tort Trustee, nor is he questioning the work of the PSC, the lack of information makes it impossible for undersigned counsel to properly explain to his clients – who were rightfully believing they would *finally* be receiving the initial bankruptcy check by the end of 2016 or the first week of 2017 - the reason

¹ On February 2, 2017, the Tort Trustee emailed the undersigned that a letter had been forwarded to CMS which they “believe” resolves the issue, but there has been no assurance that the issue actually has been resolved.

they are not receiving their checks.

Undersigned sincerely hopes that by the hearing date, the issue(s) will have been resolved and the Tort Trustee will state that each of the above victims will be receiving the initial check within the next 7-10 days. If not, this Court, respectfully, needs to intervene.

Undersigned request to participate telephonically at the February status conference.

Respectfully submitted,

/s/ Daniel L. Clayton
Randall L. Kinnard (B.P.R. No. 04714)
Daniel L. Clayton (B.P.R. No. 12600)
KINNARD, CLAYTON & BEVERIDGE
127 Woodmont Boulevard
Nashville, TN 37205-2211
(615) 297-1007
rkinnard@kcbattys.com
dclayton@kcbattys.com

CERTIFICATE OF SERVICE

I, Daniel L. Clayton, hereby certify that on February 3, 2017. I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

/s/ Daniel L. Clayton
Daniel L. Clayton